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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,033	04/14/2004	Yoshikazu Fujimori	12844.15USD1	7384

23552 7590 03/27/2006

MERCHANT & GOULD PC
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MINNEAPOLIS, MN 55402-0903

EXAMINER

NGUYEN, HA T

ART UNIT	PAPER NUMBER
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2812

DATE MAILED: 03/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

H.A

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/825,033	Applicant(s) FUJIMORI, YOSHIKAZU	
	Examiner Ha T. Nguyen	Art Unit 2812	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 February 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-3, 6 and 9-12.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see the examiner's response.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
 13. ☐ Other: _____.

Response to Applicants' Arguments

1. Applicants' arguments with regard to the rejections under 35 U.S.C. 103 have been fully considered, but they are not deemed to be persuasive for at least the following reasons.

Applicants argue that Horie does not disclose the formation of a seed layer containing an ultra-fine particle powder comprised of an element constituting the ferroelectric film or forming the ferroelectric thin film on the seed layer because Horie discloses "coating the substrate with a fine particle dispersion, removing the solvent, then annealing the particles to form a uniform film". The examiner does not dispute that this is one of the processes disclosed by Horie. However, the process the examiner refers to is a cyclic process where in the first cycle a thin layer of dispersion liquid with a low concentration of particles, where after the drying step, the ultrafine particles are still present and where additional thin layers are formed (see col. 7, lines 35-36 and col. 8, lines 45-50), note that in at least some of the processes the seed layer is formed (see col. 7, lines 35-36) and/or the treatment of deposited layers are done after the film grow to a desired thickness (see col. 8, lines 45-67). Besides, at least the metal contained in the powder satisfies the limitation "an element constituting the ferroelectric thin film" because by oxidation the metal become a ferroelectric metal oxide.

Therefore, Horie in combination with the applied references do teach or make obvious all the limitations of the rejected claims 1-3, 6, and 9.

Note: The claims 10-12, newly added in the response to the non-final rejection were not treated by the examiner in the final rejection. However, these newly claimed features are not disclosed to be critical features of the claimed invention. Besides surfactant is commonly used to reduce surface tension and the claimed solvent are organic solvents well known in the art.

Conclusion

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ha Tran Nguyen whose telephone number is (571) 272-1678. The examiner can normally be reached on Monday-Friday from 8:30AM to 6:00PM, except the first Friday of each bi-week. The telephone number for Wednesday is (703) 560-0528.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael S. Lebentritt, can be reached on (571) 272-1873. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HN

3- 13- 06



Ha Tran Nguyen
Primary Examiner

Continuation of 3. NOTE: The change of dependency of claims 11-12 changes the scope of the claims requiring further consideration/search.

A handwritten signature in black ink, consisting of a stylized 'H' followed by a cursive flourish.